

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1, 2, 5-13, 15-28, 30-40 and 42-50 are active in this application, Claims 1, 5, 7-9, 12, 16, 18-23, 26, 28, 30-36, 38, 40, 42-48 and 50 having been amended by way of the present amendment, and Claims 3-4, 14, 29 and 41 having been canceled.

In the outstanding Office Action Claim 50 was rejected under 35 U.S.C. § 112, second paragraph; Claims 30-35 and 42-47 were rejected as being non-compliant with 35 U.S.C. § 112, second paragraph; Claims 1-9, 12-23, 26-31, 38-43 and 50 were rejected as being anticipated by Kuo et al. (U.S. Patent No. 6,542,718); Claims 10-11 and 24-25 were rejected as being unpatentable over Kuo in view of Hakkinen et al. (U.S. Patent No. 6,567,459); Claims 36 and 48 were rejected as being unpatentable over Kuo in view of La Porta et al. (U.S. Patent No. 6,763,007); and Claims 37 and 49 were rejected as being unpatentable over Kuo in view of La Porta and in further view of Chuah (U.S. Patent No. 6,469,991).

In reply, Claims 30-35, 42-47 and 50 have been amended consistent with 35 U.S.C. § 112, second paragraph. It is believed that these claims comply with 35 U.S.C. 112, second paragraph. However, if the Examiner disagrees the Examiner is invited to telephone the undersigned so that mutually agreeable claim language may be identified.

Claim 1, for example, has been amended to define a method, that among other things, determines whether or not a burst signal is to be transmitted based on a comparison result between a criterion previously determined in accordance with a state of the radio channel, a transmission waiting state of the signal, and the state of the radio channel between the transmitting station and the receiving station.

The outstanding Office Action asserts that Kuo discloses at column 6, lines 24-32 that the serving base station sends out a burst assignment to the mobile unit such that the length of the data rate of the first are set and the burst is initiated based on whether or not the data has been reached before termination of the transmission. However, it is respectfully submitted that Kuo describes the termination of a transmission using a signal-to-noise ratio, but does not use the transmission waiting state as the criteria for determining whether to transmit the burst signal. Applicants submit that Hakkinen, nor any of the other applied references, teach or suggest using the transmission waiting state as a criteria for determining whether to transmit the burst signal. Therefore, it is respectfully submitted that no matter how Kuo, whether taken individually, or combined with any of the secondary references, anticipates or renders obvious the invention of Claim 1.

Although of differing statutory class, or scope, it is respectfully submitted that each of the other pending Claims 1, 2, 5-13, 15-28, 30-40 and 42-50, as amended, also patentably define over the asserted prior art for substantially the same reasons as discussed above with regard to amended Claim 1.

Therefore, it is respectfully submitted that in view of the present amendment, and in light of the above-described remarks, the invention defined by Claims 1, 2, 5-13, 15-28, 30-40 and 42-50, as amended, is definite and patentably distinguishing over the prior art. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

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